THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.12388 OF 2007

Dated: 17-07-2007

Between :

Giridhar Kanapuram … Petitioner

And

The Regional Passport Authority,
Hyderabad Office at Secunderabad. .. Respondent

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ORDER :

The petitioner was granted a passport bearing No.A-3611082 in which the name of the petitioner's wife was also entered in the specified column. However, subsequently his marriage was dissolved by order dated 9-5-2007 passed by the Court of the Second Judicial Circuit, In and For Leon Country, Florida, U.S.A. in Case No.6 DR 3525. After the dissolution of the marriage, the petitioner submitted an application dated 12-6-2007 to the respondent seeking extension of his passport since the same expires on 17-8-2007. Along with the application for renewal of passport while enclosing all the relevant documents including the order passed by the Court of U.S.A. dissolving the marriage, the petitioner sought to delete the name of his divorced wife while renewing the passport. The said application was returned by the respondent on the ground that unless there is a specific direction from a competent Court, no alteration can be affected in the passport. Hence, this writ petition seeking a declaration that the action of the respondent in refusing to accept the petitioner's application for renewal of passport by deleting the name of his divorced wife in the column specified for the name of the spouse as arbitrary and illegal.

A counter-affidavit has been filed by the respondent stating that since the decree produced by the petitioner was granted by a Foreign Court, it is necessary to furnish the appropriate order from the Court of this Country.

I have heard the learned Counsel for both the parties.

It is to be noted that by virtue of the Circular dated 18-4-2001 issued by the Government of India, Ministry of External Affairs, it is permissible to affect rectification/correction of the entries in the passport in case the respondent is satisfied that it is only a technical correction. A declaratory decree from the competent Court is required only where the initial entry was made on the basis of a supportive document issued by one competent authority and the documents produced by the applicant subsequently in support of his request for alteration of the entries are also issued by another competent authority thus resulting in conflicting sources of valid proof.

In the case on hand, the request of the petitioner for alteration of the entry relating to the name of the spouse by deleting his wife's name is based on a decree granted by a Competent Court dissolving their marriage. It is true that the decree was granted by a Foreign Court, however Section 14 of the Code of Civil Procedure provides for a presumption that such judgment of a Foreign Court was pronounced by a Court of competent jurisdiction unless the contrary appears on the record. Of course, such presumption can be displaced by proving want of jurisdiction. Section 13 of CPC also provides that Foreign Judgment shall be conclusive except in the six circumstances specified thereunder.

In the circumstances, the respondent ought not to have rejected the petitioner's application merely on the ground that his request for alteration of entry is based on a Foreign Judgment.

Accordingly, the Writ Petition is disposed of permitting the petitioner to resubmit his application along with all the relevant supporting material within a period of one week from the date of receipt of this order, in which event the respondent shall entertain the same and pass appropriate orders in accordance with law as expeditiously as possible preferably within a period of two weeks thereafter.

Writ Petition is accordingly disposed of. No costs.

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G. ROHINI, J.

Dt.17-7-2007

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